



14 SEP 2004
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23372
TAYLOR, RUSSELL & RUSSELL, P.C.
4807 Spicewood Springs Road
Building Two, Suite 250
Austin, TX 78759

In re Application of
ENDERSON, Timothy David Robert
U.S. Application No.: 10/708,471
Filing Date: 05 March 2004
Attorney Docket No.: 800769
For: RESILIENT ELASTOMERIC
STRUCTURE

**DECISION
ON PETITION
TO CONVERT**

This decision is in response to applicants' "Petition to Treat Application as filed Under 35 U.S.C. 371" filed on 09 June 2004 which is treated as a request to convert the above-captioned application to a national stage application of PCT/GB02/04050 pursuant to 35 U.S.C. 371. The \$130.00 fee has been charged to petitioner's credit card as authorized.

A review of the above-captioned application file verifies that it was properly processed under 35 U.S.C. 111(a). Applicant filed the above-captioned application using the Electronic Filing System (EFS) on 05 March 2004. A national stage filing under 35 U.S.C. 371 using the EFS is not allowed at this time.¹ Accordingly, the application was properly processed as a filing under 35 U.S.C. 111(a).

Nonetheless, applicant's petition to convert the application to a national stage filing will be considered. U.S. Statutes and Regulations do not make specific provision for the requested action and as such the Office does not grant such petitions for conversion as a mere matter of course. The Office will only grant such petitions upon a showing by applicant of sufficient cause (e.g., the loss of patent rights) where no other remedy is available.

In the present petition, applicants have not made a showing that a loss of patent rights would occur if the above-captioned application is a filing under 35 U.S.C. § 111(a).

¹ See Electronic Filing System - Frequently Asked Questions (FAQs)
(<http://www.uspto.gov/ebs/efs/faq/whattype.htm#eight>)

May I electronically file an international application under 35 U.S.C. 371 National stage?

At this time EFS does not provide all the capabilities needed to author, submit and initially process electronic documents and attachments required for a complete 35 U.S.C. 371 National stage filing . . .

According, the present petition is **DISMISSED** for lack of showing of sufficient cause.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. No additional petition fee is required.

This application is being forwarded to OIPE for further processing under 35 U.S.C. 111(a).



James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-645;
(571) 273-3302 (after 30 September 2004)

To James Thompson

Request for Legal Staff Consideration

Serial No. _____

Date : _____

Request : ☐ Petition To Revive Unintentionally Abn. Appl. ☐ Petition under Rule 1.47

☒ Other : *PA*

Requestor : _____

Supervisor : _____

Response : _____

By : _____

Date : _____

4807 Spicewood Springs Road
Building 2, Suite 250
Austin, Texas 78759
Phone: (512) 338-4601
Fax: (512) 338-4651



Fax

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To: PCT LEGAL OFFICE
MAIL STOP PCT
COMMISSIONER FOR PATENTS

From: Douglas D. Russell

Fax: 703-308-6459

Date: 6/9/2004

Time: 1:08pm CST

Re: Petition to PCT Legal Office
U.S. National Stage
Patent Application No. 10/708,471
Filed: March 5, 2004

Pages: 17, including this cover sheet

RECEIVED
09 JUN 2004
Legal Staff
International Division

09/14/2004 CSM00T 00000007 10708471

01 FC:1460

130.00 OP

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application Number: 10/708,471	
Applicant: Henderson, Timothy David Robert	Group Art Unit:
Title: Resilient Elastomeric Structure	Examiner:
Date Filed: March 5, 2004	
Attorney Docket No.: 800769	

PETITION TO TREAT APPLICATION AS FILED UNDER 35 U.S.C. 371

VIA FACSIMILE 703-308-6459

Attention: PCT Legal Staff
Mail Stop PCT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sirs:

On March 5, 2004, we electronically filed the subject national stage application under 35 U.S.C. 371 of PCT/USGB02/04050, after confirming with the USPTO's Electronic Business Center that it would be received as a national stage application under 35 U.S.C. 371. Otherwise, we would have filed on paper with the PCT Office.

On June 7, 2004, we received a filing receipt from the Office of Initial Patent Examination, which included a Notice Regarding Benefit/Priority Claim(s), indicating that the benefit claim was improper and that the Patent Office had changed the status of the application from one filed under 35 U.S.C. 371 to one filed under 35 U.S.C. 111(a). On June 9, 2004, we were informed through the PCT Help Desk that the status of the application had been changed because the application was not processed by the PCT Office.

Applicant respectfully requests the PCT Legal Office to treat subject application number 10/708,471 as the national stage commencement filed under 35 U.S.C. 371 of international application number PCT/GB02/04050 filed 6 September 2002, instead of one filed under 111(a).

Attached please find the following supporting documents: USPTO's Acknowledgement Receipt of the application filing, Application Data Sheet stating the continuing data, Declaration signed by Applicant, and the first page of the specification. We

have also attached the USPTO's Filing Receipt and Notice Regarding Benefit/Priority Claims(s).

Also attached is credit card payment form authorizing the \$130 fee for this petition.

Date: June 9, 2004

Respectfully submitted,



Douglas D. Russell, Reg. No. 40152
Attorney for Applicant

TAYLOR RUSSELL & RUSSELL, P.C.
4807 Spicewood Springs Road
Building 2, Suite 250
Austin, Texas 78759-8444
512-338-4601
512-338-4651 (Fax)

Certificate of Transmission / Mailing

I hereby certify that this correspondence is being facsimile transmitted to the USPTO at number 703-308-6459, or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below:

June 9, 2004
Date

Ellen Huffman
Signature: Ellen Huffman

*** RX REPORT ***

RECEPTION OK

TX/RX NO	6669
RECIPIENT ADDRESS	5123384651
DESTINATION ID	
ST. TIME	06/09 14:10
TIME USE	07'12
PGS.	17
RESULT	OK

UNITED STATES PATENT AND TRADEMARK OFFICE
ACKNOWLEDGEMENT RECEIPT

Electronic Version 1.1

Stylesheet Version v1.1.1

Title of Invention	Resilient Elastomeric Structure																																					
Submission Type:	Utility Patent Filing																																					
Application Number:	10/708471	*10/708471*																																				
EFS ID:	56657																																					
Server Response:	<table border="1"><thead><tr><th>Confirmation Code</th><th>Message</th></tr></thead><tbody><tr><td>ISVR1</td><td>Submission was successfully submitted - Even if Informational or Warning Messages appear below, please do not resubmit this application</td></tr><tr><td>ICON1</td><td>2470</td></tr></tbody></table>		Confirmation Code	Message	ISVR1	Submission was successfully submitted - Even if Informational or Warning Messages appear below, please do not resubmit this application	ICON1	2470																														
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Attorney Docket Number:	800769																																					
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Total files size		636371

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Government,c=US



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APPLICATION NUMBER	FILING OR 371 (e) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/708,471	03/05/2004	Timothy David Robert Henderson	800769

23372

TAYLOR RUSSELL & RUSSELL, P.C.
 4807 SPICEWOOD SPRINGS ROAD
 BUILDING TWO SUITE 250
 AUSTIN, TX 78759

CONFIRMATION NO. 2470



OC000000012869914

Date Mailed: 06/04/2004

Notice Regarding Benefit/Priority Claim(s)

☐ **Improper Benefit Claim(s) to Prior-Filed Nonprovisional Application(s)**

The benefit claim(s) to prior-filed nonprovisional application(s) is improper because there is no specific reference for each prior-filed application that includes: (1) the identification of the prior-filed application by application number, or international application number and international filing date; and (2) a clear indication the relationship (i.e., continuation, divisional, or continuation-in-part) of the nonprovisional applications. For example, applicant should amend the specification to include a specific reference, such as "This application is a continuation of Application No. 10/---,--- filed ---," in the first sentence of the specification following the title.

Applicant should review each benefit claim submitted and, if appropriate, provide the proper reference to the prior-filed application(s) as required by 37 CFR 1.78. A proper relationship includes an identification of each nonprovisional application as a continuation, divisional or continuation-in-part application of the immediate prior-filed nonprovisional application for which a benefit is claimed under 37 CFR 1.78 in order to establish copendency throughout the entire chain of prior-filed applications. The specific reference must be included in the domestic priority information section of an application data sheet (37 CFR 1.76), or the specification must contain, or be amended to contain, such reference in the first sentence following the title.

Timeliness: The required reference for each benefit claim must be filed during the pendency of the instant application and within the later of: (1) four months from the actual filing date of the instant application, or the national stage commencement date if the instant application is a national stage application under 35 U.S.C. 371; or (2) sixteen months from the filing date of the prior-filed application. Failure to timely file the required reference is considered a waiver of any benefit claim, unless a grantable petition to accept an unintentionally delayed claim under 37 CFR 1.78(a), the surcharge set forth in 37 CFR 1.17(t), and the required reference are filed. See 37 CFR 1.78(a).

☒ **Improper Benefit Claim(s) to Prior-Filed Nonprovisional Application(s)**

The benefit claim(s) to prior-filed provisional application(s) is improper because the instant

application was not filed within twelve (12) months from the filing date of the provisional application, and there is no indication of an intermediate nonprovisional application that is directly claiming the benefit of the provisional application and filed within 12 months of the filing date of the provisional application. For example, applicant should amend the specification to include a specific reference, such as "This application is a continuation of Application No. 10/---,--- filed ---, which claims the benefit of U.S. Provisional Application No. 60/---,--- filed---," in the first sentence of the specification following the title.

Applicant should review each benefit claim submitted and, if appropriate, provide the proper reference to the prior-filed applications (including an indication of any intermediate nonprovisional application that is directly claiming the benefit of the provisional application and filed with 12 months of the filing date of the provisional application) as required by 37 CFR 1.78. The required reference must be included in the domestic priority information section of an application data sheet (37 CFR 1.76), or the specification must contain, or be amended to contain, such reference in the first sentence following the title.

Timeliness: The required reference for each benefit claim must be filed during the pendency of the instant application and within the later of: (1) four months from the actual filing date of the instant application, or the national stage commencement date if the instant application is a national stage application under 35 U.S.C. 371; or (2) sixteen months from the filing date of the prior-filed application. Failure to timely file the required reference is considered a waiver of any benefit claim, unless a grantable petition to accept an unintentionally delayed claim under 37 CFR 1.78(a), the surcharge set forth in 37 CFR 1.17(t), and the required reference are filed during the pendency of the instant application.

☐ **Improper Priority Claim(s) to Prior-Filed Foreign Application(s)**

The instant application was not filed within twelve (12) months from the filing date of the prior-filed foreign application, and there is no benefit claim to an intermediate nonprovisional application filed within 12 months of the filing date of the foreign application. Applicant should review each priority claim submitted and, if appropriate, provide the proper reference to any intermediate nonprovisional application filed within 12 months of the filing date of the foreign application in compliance with 37 CFR 1.78, or delete the priority claim. The required reference to an intermediate nonprovisional application must be included in the domestic priority information section of an application data sheet (37 CFR 1.76), or the specification must contain, or be amended to contain, such reference in the first sentence following the title.

Timeliness: The required reference for the benefit claim to an intermediate nonprovisional application must be filed during the pendency of the instant application and within the later of: (1) four months from the actual filing date of the instant application, or the national stage commencement date if the instant application is a national stage application under 35 U.S.C. 371; or (2) sixteen months from the filing date of the prior-filed application. Failure to timely file the required reference is considered a waiver of any benefit claim, unless a grantable petition to accept an unintentionally delayed claim under 37 CFR 1.78(a), the surcharge set forth in 37 CFR 1.17(t), and the required reference are filed.

☐ **Benefit Claims to More Than 400 Prior-Filed Applications**

The Office's automated system to record and capture benefit claims is only capable of recording benefit claims for 400 prior-filed applications. Therefore, the Office is unable to generate a filing receipt containing benefit claims for more than 400 prior-filed applications even though applicant is entitled to submit benefit claims for more than 400 prior-filed applications. Accordingly, applicant should not request a corrected filing receipt to include benefit claims for more than 400 prior-filed applications.

☒ Prior-Filed Nonprovisional Application has been Improperly Indicated as a National Stage (35 U.S.C. 371) Application

Applicant submitted a benefit claim to a prior-filed nonprovisional application and improperly indicated that the prior-filed application is a national stage application under 35 U.S.C. 371. The Office's records show that the prior-filed application is an application filed under 35 U.S.C. 111(a). The Office has entered the benefit claim to the prior-filed application as a benefit claim to an application filed under 35 U.S.C. 111(a). Any request for a corrected filing receipt to include the indication that the prior-filed application is a national stage application will not be granted unless applicant supplies evidence that the prior application was in fact a national stage application. Accordingly, applicant should not submit such request without such evidence. Applicant should submit an amendment (or an application data sheet (ADS) if the benefit claim was submitted in an ADS) to delete the indication that the prior-filed application is a national stage application.

For more information and examples on benefit claims, please see Claiming the Benefit of a Prior-Filed Application under 35 U.S.C. 119(e), 120, 121, and 365(c), 1268 Off. Gaz. Pat. Office 89 (March 18, 2003), which is available on the USPTO website at <http://www.uspto.gov/web/offices/com/sol/og/2003/week11/patbene.htm>, and the Manual of Patent Examining Procedure (MPEP) §§ 201.11 and 201.14.

PART 2 - COPY TO BE RETURNED WITH RESPONSE



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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/708,471	03/05/2004	3712	611	800769	5	28	3

23372
 TAYLOR RUSSELL & RUSSELL, P.C.
 4807 SPICEWOOD SPRINGS ROAD
 BUILDING TWO SUITE 250
 AUSTIN, TX 78759

TAYLOR RUSSELL
 JUN 07 2004
 & RUSSELL, P.C.

CONFIRMATION NO. 2470

FILING RECEIPT



OC000000012869923

Date Mailed: 06/04/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).

Applicant(s)

Timothy David Robert Henderson, North Wales, UNITED KINGDOM;

Domestic Priority data as claimed by applicant

Foreign Applications

UNITED KINGDOM 0121655.5 09/07/2001

If Required, Foreign Filing License Granted: 05/28/2004

Projected Publication Date: 09/09/2004

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **

Title

Resilient Elastomeric Structure

Preliminary Class

472

**LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15**

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

Phoenix Application Management System

Table of Contents of

10708471

date: 09-07-2004

Table of Contents (As Displayed)

Date	Code	Descr.	Page s	Public	A-Pub	Annotation	Status
03-05-2 004	TRNA	Transmittal of New Application	2	Yes			Default
03-05-2 004	OATH	Oath or Declaration filed	1	Yes			Default
03-05-2 004	ADS	Application Data Sheet	2	Yes			Default
03-05-2 004	WFEE	Fee Worksheet (PTO-875)	1	Yes			Default
03-05-2 004	CLM	Claim	5	Yes			Default
03-05-2 004	SPEC	Specification	18	Yes			Default
03-05-2 004	ABST	Abstract	1	Yes			Default
03-05-2 004	DRW	Drawings	5	Yes			Default
03-05-2 004	N417	Status Letter Mailed to Applicant	2	Yes			Default
05-28-2 004	WFEE	Fee Worksheet (PTO-875)	1	Yes			Default
06-04-2 004	CTMS	Miscellaneous Action with SSP	3	Yes			Default

Description

Resilient Elastomeric Structure

CROSS REFERENCE TO RELATED APPLICATIONS

[0001] This application is the national stage commencement under 35 U.S.C. 371 of international application number PCT/GB02/04050 filed 6 September 2002, claiming priority to application number GB 0121655.5 filed 7 September 2001.

BACKGROUND OF INVENTION

- [0002] This invention relates to a resilient elastomeric structure. In particular, but not exclusively, it relates to a resilient elastomeric structure for use as a component of a playground toy or an amusement ride.
- [0003] In children's playgrounds, it is common to find rides that take the form of a ride body upon which a child can sit, the ride body being connected through a helical spring to a plate secured on the ground. This means that a child can sit upon the body and bounce or rock, causing the spring to flex. The resilient nature of the spring is such

that it tends always to urge the ride body back to a neutral, upright position. To add interest to the ride, the ride body is typically shaped to resemble an animal, a motorcycle, or some other shape intended to please a child.

[0004] These rides are popular with children, and are very safe, there being no instances known to the applicant of a child being harmed when playing on them, other than in the type of minor falls that will happen inevitably. However, the presence of a strong steel spring can give the ride an "engineered" appearance and the impression, even if incorrect, that the spring could injure a child, perhaps by trapping a hand or foot.

[0005] It has been proposed in US-A-5 415 590 to replace the spring in such a ride with a dome-shaped construction of natural and neoprene rubber, into which is moulded a steel support post, the body of the ride being carried on the support post. While such a ride may perform well when it is first manufactured, experience has shown that rubber will, over time, become brittle when exposed to the weather. When this happens, it loses its elastomeric properties, and may eventually become brittle. It is also possible that the supporting post will become loose or may even detach, this being highly undesirable and risky

for a child using the ride.

SUMMARY OF INVENTION

- [0006] An aim of this invention is to provide a replacement for the spring in a playground ride or other amusement apparatus that does not suffer from the disadvantages of the arrangement shown in US-A-5 415 590.
- [0007] From a first aspect, this invention provides a resilient elastomeric support structure for use in a ride comprising an elastomeric body that includes a first connection formation for connection with a supporting foundation, a second connection formation for connection with a ride body, and a connection region interconnecting the first and second connection formations, the elastomeric structure being formed of polyurethane.
- [0008] It has been found that polyurethane exhibits particularly advantageous elastomeric properties while having greater durability and predictability of properties than can be obtained from rubber. These can be further enhanced by addition of an ultraviolet stabilising formulation. The resilient properties of polyurethane are exploited for some applications, such as bushes for use in vehicle suspension systems, where the main mode of deflection of the material is torsional. However, it has not recognised as being